

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lily Kim	Team: Squad #6	CCRB Case #: 201905758	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 06/26/2019 9:55 PM	Location of Incident: § 87(2)(b)	Precinct: 19	18 Mo. SOL 12/26/2020	EO SOL 8/12/2021	
Date/Time CV Reported Mon, 07/01/2019 4:30 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 07/01/2019 4:30 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Kevin Cox	07108	938279	046 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Kevin Cox	Discourtesy: Police Officer Kevin Cox acted discourteously toward § 87(2)(b)	§ 87(2)(b)
B.POM Kevin Cox	Abuse: Police Officer Kevin Cox refused to provide his name to § 87(2)(b)	§ 87(2)(b)
C.POM Kevin Cox	Discourtesy: Police Officer Kevin Cox spoke discourteously to § 87(2)(b)	§ 87(2)(b)
D.POM Kevin Cox	Abuse: Police Officer Kevin Cox refused to provide his name to § 87(2)(b)	§ 87(2)(b)
E.POM Kevin Cox	Abuse: Police Officer Kevin Cox refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)

Case Summary

On July 1, 2019, § 87(2)(b) filed the following complaint over the phone with the CCRB.

On June 26, 2019 at approximately 10:00 p.m., § 87(2)(b) accompanied her father, § 87(2)(b) to the § 87(2)(b) in Manhattan. A nurse called for security to remove § 87(2)(b) from the emergency room because she believed § 87(2)(b) was recording on her phone. Police Officer Kevin Cox of the 46th Precinct responded. On three occasions, PO Cox took § 87(2)(b)'s phone from her hand and ended her call. (**Allegation A—Discourtesy**, § 87(2)(g)) After medical staff decided to allow § 87(2)(b) to stay in the emergency room, PO Cox returned her phone. § 87(2)(b) asked PO Cox to provide his name, and he did not provide it (**Allegations B—Abuse of Authority**, § 87(2)(g)). As PO Cox walked away, he stated loudly to the security guard, “This is fucking bullshit. I had to throw somebody out for the same fucking reason” (**Allegation C—Discourtesy**, § 87(2)(g)). Later, § 87(2)(b) arrived and asked PO Cox to provide his name and shield number, which he did not provide (**Allegations D and E—Abuse of Authority**, § 87(2)(g), § 87(2)(b) and § 87(2)(b) were not arrested or issued a summons.

No video footage was obtained for this incident.

Findings and Recommendations

Allegation A—Discourtesy: Police Officer Kevin Cox acted discourteously toward § 87(2)(b)

It is undisputed that § 87(2)(b) used her cell phone in the emergency room and that hospital staff reported to PO Cox that they believed she was recording, a violation of HIPAA rules. It is also undisputed that PO Cox took § 87(2)(b) phone and disengaged the phone several times when it rang.

§ 87(2)(b) testified (BR 01) that she was upset with the level of care being given to § 87(2)(b). § 87(2)(b) took a photograph of § 87(2)(b) as evidence that he was in extreme pain, while she was on the phone with § 87(2)(b) on speaker. An unidentified nurse stated that § 87(2)(b) was recording them and asked security to remove her from the emergency room. PO Cox arrived to remove § 87(2)(b) from the emergency room. PO Cox and § 87(2)(b) had a short verbal exchange in which PO Cox stated that he was a United States Marine and § 87(2)(b) showed him a PBA card she obtained from Deputy Chief Charles M. Scholles of the 61st Precinct. When § 87(2)(b) stated that she would call the deputy chief, PO Cox took § 87(2)(b)'s PBA card and phone from her hand and ended the call with § 87(2)(b). § 87(2)(b) called back three times, and PO Cox ended the call each time.

§ 87(2)(b) testified (BR 02) that he was on the phone with § 87(2)(b) while on his way to § 87(2)(b) when the call was disconnected. § 87(2)(b) called her back approximately four to five times, and each time the calls were picked up and then ended. Later, when § 87(2)(b) arrived at the hospital, § 87(2)(b) pointed to PO Cox and informed § 87(2)(b) that he was the one who had disconnected the calls earlier.

§ 87(2)(b) provided a phone statement (BR 03-04) in which she testified that it was a very busy day in the emergency room when she was caring for § 87(2)(b). § 87(2)(b) was very upset about her father's care and was disruptive. An unidentified nurse stated that § 87(2)(b) attempted to record in the emergency room, which is a HIPAA violation, and asked security to remove § 87(2)(b). PO Cox responded, and at some point during his interaction with § 87(2)(b) PO Cox

had § 87(2)(b)'s cellphone in his hand because a nurse informed him that § 87(2)(b) was trying to record. § 87(2)(b) did not see him do anything with the phone. § 87(2)(b) did not remember hearing § 87(2)(b) say anything about the officer declining calls on her phone. At some point § 87(2)(b) told PO Cox to allow § 87(2)(b) to stay in the emergency room because she was concerned that § 87(2)(b) would take § 87(2)(b) out of the hospital when he needed care.

No statement was obtained from § 87(2)(b) because he was uncooperative in this investigation.

PO Cox testified (BR 05) that while he worked a detail at § 87(2)(b), he was notified by an unidentified security guard about a civilian who needed to be removed from the emergency room because she was disruptive and tried to record something in the emergency room. When PO Cox and the security guard arrived at the emergency room, § 87(2)(b) was talking with someone on the phone. PO Cox did not see § 87(2)(b) taking any photos or recording video. PO Cox walked over to § 87(2)(b) and said, "Ma'am," approximately six or more times to get her attention. § 87(2)(b) continued to speak on her phone, as if PO Cox did not exist. In order to get her attention, PO Cox took § 87(2)(b)'s phone out of her hand. PO Cox waited for about two minutes while the medical staff decided whether to allow § 87(2)(b) to stay in the emergency room. In the meantime, three calls were received at § 87(2)(b)'s phone, which vibrated in PO Cox's hand. The phone calls were distracting, and PO Cox assumed that it was the same person calling repeatedly, so he quickly tapped the phone to end each call. PO Cox declined two or three calls in this manner. PO Cox did not do anything else with the phone. PO Cox did not see § 87(2)(b) taking any photos or recording video. PO Cox was not aware if someone informed her that taking photos and videos in the emergency room was illegal. PO Cox did not inform her that taking photos and videos in the emergency room was illegal. PO Cox returned § 87(2)(b)'s phone to her at the end of the incident.

The Department is committed to accomplishing its mission of protecting the lives and property of all citizens of New York City by treating every citizen with compassion, courtesy, professionalism, and respect, while efficiently rendering police services and enforcing the laws impartially, by fighting crime both through deterrence and the relentless pursuit of criminals. Patrol Guide Procedure 200-02 (BR 06).

§ 87(2)(g)
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Allegation B—Abuse of Authority: Police Officer Kevin Cox refused to provide his name to

§ 87(2)(b)
§ 87(2)(b) testified that after PO Cox returned her phone and PBA card to her, she asked PO Cox

for his name. PO Cox did not verbally provide his name and walked away from her.

§ 87(2)(b) testified that she did not hear § 87(2)(b) ask PO Cox for identifying information.

PO Cox testified that § 87(2)(b) did not ask him for his name or any identifying information. PO Cox did not provide any identifying information to § 87(2)(b).

§ 87(2)(g)

Allegation C—Discourtesy: Police Officer Kevin Cox spoke discourteously to § 87(2)(b).

§ 87(2)(b) testified that as PO Cox walked away, he stated to a security officer in regards to the incident with § 87(2)(b) “This is fucking bullshit. I had to throw somebody out for the same fucking reason.” Although PO Cox addressed the security officer, he stated it loudly so that many people in the whole emergency room, including § 87(2)(b) could hear.

§ 87(2)(b) testified that she did not hear PO Cox say anything to the effect of, “This is fucking bullshit. I had to throw somebody out for the same fucking reason.” She did not hear PO Cox use any profanity.

No statement was obtained from § 87(2)(b) because he was uncooperative in this investigation. Several attempts were made to identify the security guard in PO Cox allegedly spoke with. These attempts were unsuccessful.

PO Cox testified that he may have spoken to the security guard at the end of the incident, but he did not say, “This is fucking bullshit. I had to throw somebody out for the same fucking reason.” He did not use any profanity with the security guard.

§ 87(2)(g)

Allegation D—Abuse of Authority: Police Officer Kevin Cox refused to provide his name to § 87(2)(b).

§ 87(2)(b)

Allegation E—Abuse of Authority: Police Officer Kevin Cox refused to provide his shield number to § 87(2)(b).

§ 87(2)(b) testified that when he arrived at the hospital, he met with § 87(2)(b) outside the emergency room. § 87(2)(b) pointed out PO Cox as the officer who had taken her phone earlier. § 87(2)(b) asked to speak with PO Cox and requested his name and shield number. PO Cox did not provide his name or shield number verbally or in writing.

§ 87(2)(b) testified that § 87(2)(b) obtained PO Cox’s name and shield number when he arrived at a later point.

PO Cox testified that at his end of tour, he exited the hospital and saw § 87(2)(b) and § 87(2)(b) standing outside. § 87(2)(b) approached him and asked him why he had taken his girlfriend’s phone. PO Cox did not answer but pointed to the NYPD patch on his uniform as well as his badge and nameplate. § 87(2)(b) did not ask PO Cox for his name or shield number. PO Cox did not provide his name or shield number to § 87(2)(b) verbally or in writing.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to two CCRB complaints and has been named as a victim in seven allegations.

O § 87(2)(b)

- PO Cox has been a member-of-service for 14 years and has been a subject in sixteen CCRB complaints.

Mediation, Civil and Criminal Histories

- On October 15, 2019, this case was sent to mediation and on January 16, 2020, the case was returned to investigation after an unsuccessful mediation.

• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

- As of February 21, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint.

Squad No.: 6

Investigator: Lily Kim Inv. Lily Kim 3/26/2020
Signature Print Title & Name Date

Squad Leader: Jessica Pena IM Jessica Pena 3/26/2020
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date